IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

OP.No. 16880 of 2002(H)

PETITIONER:

M/S.PARTHAS TEXTILES, K.K.ROAD,
KOTTAYAM, REPRESENTED BY MANAGING PARTNER,
S. VARADARALU.

BY ADV. SRI.C.K.THANU PILLAI

RESPONDENTS:
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1. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

2. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, KOTTAYAM.

3. THE ASSISTANT COMMISSIONER(ASSESSMENT),
SALES TAX SPECIAL CIRCLE, KOTTAYAM.

BY GOVERNMENT PLEADER SRI. PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/11/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 28790 OF 2002 IN OP 16880 OF 2002

DISMISSED

14.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF CERTIFICATE IN FORM B DATED 28.5.1979 ISSUED BY THE THIRD RESPONDENT.

EXT.P2 TRUE COPY OF BILL NO. 55/20/0211 DATED 28.5.1992 ISSUED BY M/S. GREAVES COTTON & CO. LTD., BOMBAY.

EXT.P3 TRUE COPY OF BILL NO. 55/55/0211 DATED 28.5.1992 ISSUED BY M/S. GREAVES COTTON & CO. LTD., BOMBAY.

EXT.P4 TRUE COPY OF ORDER NO. 21010146/92-93 DATED 18.3.1997 ISSUED BY THE THIRD RESPONDENT.

EXT.P5 TRUE COPY OF APPLICATION DATED 10.6.1986 FILED BEFORE THE THIRD RESPONDENT.

EXT.P6 TRUE COPY OF APPLICATION DATED 13.6.1986 FILED BEFORE THE THIRD RESPONDENT.

EXT.P7 TRUE COPY OF ORDER NO. RP 34/97 DATED 29.12.2000 OF THE 2ND RESPONDENT.

EXT.P8 TRUE COPY OF APPLICATION IN FORM 31A DATED 15.1.2001 FILED BEFORE THE FIRST RESPONDENT.

EXT.P9 TRUE COPY OF ORDER STRP NO. 46/01 (R3-4607/01/CT DATED 15.5.2002 ISSUED BY THE FIRST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 16880 OF 2002

Dated this the 14th day of November, 2007

JUDGMENT

Petitioner is challenging Ext.P9 order whereunder penalty levied under Section 10A of the CST Act is confirmed by the Commissioner in revision proceedings. Counsel for the petitioner contended that petitioner has made an application for admendment of certificate of registration to include generator set also. Government Pleader submitted that the alleged application was stated to be filed six years prior to the date of issue of C form. I do not find any bona fide in the contention of the petitioner. If an application for amendment of registration certificate was filed, it was for the petitioner to have approached the higher authorities or court for compelling orders on his application. In any case in order to qualify an item for concessional rate, it should find a place in the certificate of registration before issuing C-Form. Penalty is therefore rightly levied and sustained in revision proceedings. O.P. is accordingly dismissed.

(C.N. RAMACHANDRAN NAIR)
Judge